

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 430

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

AN ACT

RELATING TO ELECTIONS; REQUIRING USE OF PAPER BALLOTS FOR ALL
VOTING SYSTEMS; REQUIRING AN ADEQUATE NUMBER OF VOTING BOOTHS;
PROVIDING FOR A DELAYED REPEAL OF A SECTION OF THE ELECTION
CODE; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-9-5 NMSA 1978 (being Laws 1969,
Chapter 240, Section 188, as amended) is amended to read:

"1-9-5. REQUIREMENT TO PURCHASE AND USE VOTING
SYSTEMS.--

A. Voting systems shall be used in all precincts in
all statewide elections.

B. The county clerk of each county shall provide
one voting system in each precinct for use in the general and
primary elections when the total number of registered voters in

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underscored material = new
[bracketed material] = delete

1 that precinct amounted to fewer than six hundred at the close
2 of registration.

3 C. At least one additional voting system shall be
4 provided in such precinct for every six hundred registered
5 voters in that precinct; provided that if the voting system
6 used in the precinct is a paper ballot system, the county clerk
7 shall ensure that an adequate number of voting booths are
8 provided in lieu of providing more electronic vote tabulators.

9 D. When authorized by the state board of finance,
10 the board of county commissioners may acquire new or previously
11 owned voting or electronic vote tabulating systems, as tested
12 and approved by the secretary of state pursuant to the
13 provisions of Section 1-9-14 NMSA 1978, which systems may be
14 used in any election for public office. The acquisition of
15 these systems may be in excess of the number provided in this
16 section.

17 E. Except for intercounty acquisitions of equipment
18 approved by the secretary of state, a previously owned voting
19 or electronic vote tabulating system shall have a warranty
20 equal to the warranty required of a new voting or electronic
21 vote tabulating system."

22 Section 2. Section 1-9-7.1 NMSA 1978 (being Laws 2005,
23 Chapter 270, Section 56) is amended to read:

24 "1-9-7.1. VOTING SYSTEM--~~[VOTER-VERIFIABLE]~~ USE OF PAPER
25 ~~[TRAIL]~~ BALLOT.--

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1 A. All voting systems used in elections covered by
 2 the Election Code shall ~~[have]~~ use a ~~[voter-verifiable and~~
 3 ~~auditable]~~ paper ~~[trail]~~ ballot on which the voter physically
 4 or electronically marks the voter's choices on the ballot
 5 itself; provided, however, that voting systems owned or used by
 6 a county on ~~[the effective date of this 2005 act]~~ March 1, 2006
 7 that do not ~~[have]~~ use a ~~[voter-verifiable and auditable]~~
 8 paper ~~[trail]~~ ballot may be used until the first occurrence of
 9 the following:

10 (1) an adequate supply of voting systems is
 11 available and sufficient federal, state or local funds are
 12 available to:

13 (a) replace the voting [system] systems;
 14 (b) acquire the necessary software;
 15 (c) pay the existing debt on the voting
 16 systems to be replaced; and

17 (d) provide sufficient funding for the
 18 secretary of state to purchase the paper ballots for all
 19 counties to use on the new voting systems for primary and
 20 general elections; or

21 (2) December 31, ~~[2006]~~ 2007.

22 B. In any event, ~~[no]~~ a voting system shall not be
 23 used ~~[that]~~ if it has not been certified by the secretary of
 24 state and if a competitive bid process has not been conducted
 25 by the secretary of state pursuant to the provisions of Chapter

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1 13, Article 1 NMSA 1978.

2 ~~[C. As used in this section:~~

3 ~~(1) "voting system" includes a paper ballot~~
4 ~~system in which the voter physically marks the paper ballot to~~
5 ~~indicate the voter's choices; and~~

6 ~~(2) "voter-verifiable and auditable paper~~
7 ~~trail" means a paper record of the voter's choices, viewable~~
8 ~~prior to casting the ballot, which may be the paper ballot~~
9 ~~itself;]~~

10 C. The paper ~~[trail]~~ ballot shall be used by the
11 state or its contractor to check either the veracity of a
12 machine count or the count itself ~~[or may]~~ and shall be used in
13 a recount proceeding as are absentee ballots, and in case of a
14 discrepancy, the ~~[voter-verifiable and auditable]~~ paper ~~[trail]~~
15 ballot shall be considered the true and correct record of the
16 voter's choices."

17 Section 3. DELAYED REPEAL.--Section 1-9-4.1 NMSA 1978
18 (being Laws 2001, Chapter 233, Section 15, as amended) is
19 repealed effective December 31, 2007.

20 Section 4. EMERGENCY.--It is necessary for the public
21 peace, health and safety that this act take effect immediately.